

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKRECEIVED
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2015 OCT -1 AM 9:19

BABACAR TABANE

(In the space above enter the full name(s) of the plaintiff(s).)

AMENDED

COMPLAINT

15-CV-06058-(RJS)

-against-

THE CITY OF NEW YORK,JOHN DOE 1,JOHN DOE 2,INDIVIDUALLY AND IN
THEIR OFFICIAL CAPACITIES.Jury Trial: ☒ Yes ☐ No
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name BABACAR TABANE
 Street Address 414 WEST 44, APT. 2 F
 County, City NEW YORK
 State & Zip Code NEW YORK 10033
 Telephone Number 646-874-1479

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name THE CITY OF NEW YORK
 Street Address 100 CHURCH STREET, NEW YORK 10007

County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 2

Name JOHN DOE 1 - CAUCASIAN MALE NYPD
OFFICER
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 3

Name JOHN DOE 2 - CAUCASIAN MALE NYPD
OFFICER
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 4

Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal Questions☐ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? VIOLATION OF 42 U.S.C. § 1983, 1988, AND THE
FIRST, FOURTH, FIFTH, EIGHTH AND FOURTEENTH
AMENDMENTS TO THE US CONSTITUTION

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship _____

Defendant(s) state(s) of citizenship _____

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events.

You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? 241 WEST 42 STREET,
NEW YORK, NY

B. What date and approximate time did the events giving rise to your claim(s) occur?
AUGUST 3, 2012, APPROXIMATELY AT 7 P.M.

C. Facts: PLAINTIFF, AFRICAN-AMERICAN MALE, WAS
LAWFULLY PRESENT AT 241 W. 42 STR. AS A PHOTO-
GRAPHER FOR HIRE.
DEFENDANTS JOHN DOES APPROACHED, AND
UNEXPECTEDLY JOHN DOE 1 VIOLENTLY THREW PLAINTIFF
ON THE GROUND AND HANDCUFFED HIM.
BECAUSE OF SEVERE PAIN IN THE SHOULDER, ANKLE,
AND WRISTS, PLAINTIFF REQUESTED MEDICAL
ATTENTION, BUT BOTH DEFENDANTS IGNORED
PLAINTIFF'S COMPLAINTS FOR PAIN, AND did
NOT CALL MEDICAL EMERGENCY SERVICE.
PLAINTIFF WAS RELEASED FROM THE POLICE
CUSTODY AFTER FEMALE NYPD SERGEANT ARRIVED
AND ORDERED TO FREE PLAINTIFF.
AFTER THAT PLAINTIFF WAS ADMITTED AT
NYU MEDICAL CENTER FOR THE TREATMENT
OF THE SHOULDER, ANKLE, AND WRISTS.

What
happened
to you?

Who did
what?

Was anyone
else
involved?

Who else
saw what
happened?

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

AS A RESULT OF THE FOREGOING, PLAINTIFF
SUSTAINED PHYSICAL INJURIES, INCLUDING
SPRAIN OF THE SHOULDER AND ANKLE, WRISTS
BRUISES AND NUMBNESS, EMOTIONAL DISTRESS,
EMBARRASMENT, AND HUMILIATION, DAMAGE OF
REPUTATION, AND DEPRIVATION OF HIS
CONSTITUTIONAL RIGHTS.

FIRST CLAIM FOR RELIEF
DEPRIVATION OF FEDERAL CIVIL RIGHTS UNDER
42 U.S.C. § 1983

1. ALL OF THE AFOREMENTIONED ACTS OF DEFENDANTS WERE CARRIED OUT UNDER THE COLOR OF STATE LAW.
2. PLAINTIFF WAS DEPRIVED OF THE RIGHTS, PRIVILEGES, AND IMMUNITIES GUARANTEED TO CITIZEN OF THE US BY THE 1ST, 4TH, 5TH, 8TH AND 14TH AMENDMENTS, AND IN VIOLATION OF 42 U.S.C. § 1983.
3. THE ACTS COMPLAINED OF WERE CARRIED OUT BY DEFENDANTS IN THEIR CAPACITIES AS POLICE OFFICERS, WITH ALL AUTHORITY ATTENDANT THERETO.
4. THE ACTS COMPLAINED OF WERE CARRIED OUT BY DEFENDANTS, PURSUANT TO THE CUSTOMS, USAGES, PRACTICES, PROCEDURES, AND THE RULES OF THE CITY OF NEW YORK, AND NYPD, ALL UNDER THE SUPERVISION OF RANKING OFFICERS.
5. DEFENDANTS, WHILE ACTING UNDER COLOR OF STATE LAW, ENGAGED IN CONDUCT THAT CONSTITUTED CUSTOM, USAGE, PRACTICE, PROCEDURE OR RULE OF RESPECTIVE AUTHORITY, WHICH IS FORBIDDEN BY THE CONSTITUTION OF THE USA.

SECOND CLAIM FOR RELIEF.

FALSE ARREST UNDER 42 U.S.C. § 1983

6. PLAINTIFF REITERATES EVERY ALLEGATIONS ABOVE.

7. AS A RESULT OF THE AFORESAID CONDUCT BY DEFENDANTS, PLAINTIFF WAS SUBJECTED TO AN ILLEGAL, IMPROPER AND FALSE ARREST BY THE DEFENDANTS AND TAKEN INTO CUSTODY AND CAUSED TO BE FALSELY IMPRISONED, DETAINED WITHOUT ANY PROBABLE CAUSE, PRIVILEGE OR CONSENT.

8. AS A RESULT OF THE FOREGOING, PLAINTIFF'S LIBERTY WAS RESTRICTED FOR AN EXTENDED PERIOD OF TIME, HE WAS PUT IN FEAR FOR HIS SAFETY, AND HE WAS HUMILIATED, WITHOUT PROBABLE CAUSE.

THIRD CLAIM FOR RELIEF.

EXCESSIVE FORCE UNDER U.S.C. 42§1983

9. PLAINTIFF REPEATS EVERY ALLEGATION ABOVE.

10. THE LEVEL OF FORCE EMPLOYED BY DEFENDANTS WAS OBJECTIVELY UNREASONABLE AND IN VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS.

11. AS A RESULT OF THE AFOREMENTIONED CONDUCT OF DEFENDANTS, PLAINTIFF WAS SUBJECTED TO EXCESSIVE FORCE AND SUSTAINED PHYSICAL INJURIES.

FOURTH CLAIM FOR RELIEF FAILURE TO INTERVENE

12. PLAINTIFF REPEATS EACH ALLEGATION ABOVE.

13. EACH AND EVERY INDIVIDUAL DEFENDANT HAD AN AFFIRMATIVE DUTY TO INTERVENE ON PLAINTIFF BEHALF TO PREVENT THE VIOLATION OF HIS CONSTITUTIONAL RIGHTS.

14. THE DEFENDANT JOHN DOE 2

FAILED TO INTERVENE ON PLAINTIFF BEHALF TO PREVENT THE VIOLATION OF HIS CONSTITUTIONAL RIGHTS DESPITE HAVING HAD A REALISTIC OPPORTUNITY TO DO SO.

15. AS A RESULT OF THE AFOREMENTIONED CONDUCT OF THE INDIVIDUAL DEFENDANT, PLAINTIFF'S CONSTITUTIONAL RIGHTS WERE VIOLATED AND HE WAS ARRESTED AND SUBJECTED TO EXCESSIVE FORCE AND SUSTAINED PHYSICAL INJURIES.

FIFTH CLAIM FOR RELIEF MALICIOUS ABUSE OF PROCESS UNDER 42 USC § 1983

16. PLAINTIFF REPEATS EACH ALLEGATION ABOVE.

17. DEFENDANTS ISSUED LEGAL PROCESS TO PLACE PLAINTIFF UNDER ARREST.

18. DEFENDANTS ARRESTED PLAINTIFF IN ORDER TO

OBTAIN A COLLATERAL OBJECTIVE OUTSIDE THE LEGITIMATE ENDS OF THE LEGAL PROCESS.

19. DEFENDANTS ACTED TO HARM PLAINTIFF WITHOUT EXCUSE.

SIXTH CLAIM FOR RELIEF.
MUNICIPAL LIABILITY.

20. As a result of the customs, policies and rules of the City of New York and NYPD, plaintiff was unlawfully arrested and subjected to excessive force.
21. All of the foregoing acts by defendants deprived plaintiff of federally protected rights.

PENDANT STATE CLAIMS:

22. FALSE ARREST.
23. FALSE IMPRISONMENT.
24. ASSAULT.
25. BATTERY.
26. MALICIOUS ABUSE OF PROCESS.
27. INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS.
28. NEGLIGENT HIRING AND RETENTION.
29. NEGLIGENT TRAINING AND SUPERVISION.

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation.

AS A RESULT OF THE FOREGOING, PLAINTIFF
IS ENTITLED TO COMPENSATORY AND PUNITIVE
DAMAGES AGAINST DEFENDANTS TO BE
DETERMINED AT THE JURY TRIAL.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 30 day of SEPTEMBER, 2015

Signature of Plaintiff



Mailing Address

414 WEST 44, Apt. 2F.
NEW YORK, NY 10033

Telephone Number

646-874-1479

Fax Number (if you have one)

FILED
2015 SEP 30 PM 10:21
U.S. DISTRICT COURT SDNY



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